



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 15 2005

Mr. Stuart I. Feldstein
General Counsel
Albaugh, Inc.
121 N.E. 18th Street
Ankeny, IA 50021

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear Mr. Feldstein:

EPA's Office of Pollution Prevention and Toxics (OPPT) received on January 16, 2004, a letter from Mr. Douglas Green of Piper Rudnick on behalf of Albaugh, Inc. (Albaugh). This letter contained Albaugh's protocol amendment for the analysis of 2,5-dichlorophenol (CAS No. 583-78-8)¹ under EPA's TSCA Section 4 "Dioxin/Furan" (D/F) Test Rule (40 CFR 766). This amendment pertained to a previously submitted "Analytical Protocol, Sampling Protocol and Quality Assurance Project Plan for the Determination of Polychlorinated Dioxins and Furans in Collected Samples . . ." (Battelle Study No.: AG030002; DCN: 40040000007).

Based on recommendations from the TSCA Section 4 Dioxin/Furan Expert Panel review of the above documents, EPA accepts the protocol as amended and agrees with the Panel that the latest version of the protocol does not need any further modifications and can be used by Albaugh for preparation and analysis of the samples obtained from batches of 2,5-dichlorophenol previously imported by Albaugh from the following two sources: Anupam Rasayan, Nanpura, Surat, India, and Zhejiang Shenghua Biok Biology Co., Ltd, China. Despite the fact that the seven samples that remain in your possession were not collected in a manner that complies fully with the TSCA Section 4 D/F Test Rule, EPA believes that testing these samples will provide the Agency with valuable information regarding the potential contamination of the chemical with polychlorinated dioxins and/or furans. Therefore, it is EPA's position that Albaugh, Inc. must analyze these samples in accordance with the test rule. Please note, that analysis of the existing 2,5-dichlorophenol samples will not preclude EPA from requiring additional testing under the D/F Test Rule if Albaugh produces or imports this chemical in the future.

¹OPPT received a letter from Mr. Green dated January 23, 2004, withdrawing Albaugh's claim of TSCA Confidential Business Information (CBI) with respect to the identity of 2,5-dichlorophenol as the test substance (DCN: 40040000010).

The test results, along with the test protocol by which test results were obtained, must be submitted to EPA within 180 days from the date of this letter as required under 40 CFR 766.35. If EPA does not receive the test results within 180 days from the date of this letter, EPA has the authority to refer this case to the U.S. Department of Justice (DOJ) for specific enforcement according to Section 17 of TSCA or to seek administrative penalties under TSCA for failure to test, or both.

Albaugh should also include in the submitted final report all available information about the tested samples (i.e., information supplied by Albaugh in their past letters and the protocols, such as, source(s), shipment dates and collection dates, etc.) This information should include each sample's history to the best of Albaugh's knowledge. Information such as the names and dates of the individuals or firms who took the samples and stored them should be supplied if available. If possible, the final report should contain information to support this history or signed statements by the person(s) who assembled the history of the samples.

If you have any questions about this letter or EPA's TSCA Section 4 D/F Test Rule, please call Oksana Pozda of my office at (202) 566-0493.

Sincerely,



Charles M. Auer
Director, Office of Pollution Prevention
and Toxics

cc: David Williams/OPPT/OPPTS (7405M)
Mark Garvey/ORE/OECA (2245A)
Oksana Pozda/OPPT/OPPTS (7404T)

bcc: Ben Lim (7404T)
CBIC - Docket No. OPTS-83002C
Renee Kearney (7405M)